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July 24, 2020

VIA ECF

Honorable Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Frederick Funes v. City of New York, et al., 18-CV-9558 (JMF)

Your Honor:

I am an Assistant Corporation Counsel in the office of James E. Johnson, Corporation Counsel of the City of New York, representing defendants City of New York, Captain Muhammad, and Captain Fernandez in the above-referenced matter. Defendants write to request that the Court compel plaintiff to respond to defendants' First Set of Document Requests and Interrogatories by August 21, 2020.

By way of background, defendants initially mailed defendants' First Set of Document Requests and Interrogatories (hereinafter "discovery requests") to plaintiff on March 12, 2020, which he advised were not received due to issues regarding his legal mail. On June 5, 2020, the parties conferred by telephone and, based on plaintiff's representation that he did not receive the initial mailing, defendants mailed a second copy of defendants' discovery requests. Following plaintiff's receipt of the second mailing, he returned unfilled and unanswered discovery requests on June 10, 2020.¹ Thereafter, the parties conferred by telephone, and plaintiff informed defendants that he would respond promptly. Defendants mailed plaintiff a third copy of defendants' discovery requests on June 29, 2020, and asked that plaintiff respond within two weeks, or by July 13, 2020. As yet, defendants have not received responses from plaintiff or a request for additional time to provide his responses.

¹ Although plaintiff executed some of the releases annexed to defendants' discovery requests, certain releases were not executed properly. Plaintiff's returned medical releases do not note the names of the facilities in which he treated and accordingly cannot be used.

Plaintiff's failure to provide his responses to defendants' discovery requests has caused an undue delay in this litigation and may result in needless extensions to complete discovery. Accordingly, defendants respectfully request a direction from the Court for plaintiff to provide his responses to defendant's First Set of Document Requests and Interrogatories by no later than August 21, 2020.²

Thank you for your consideration herein.

Respectfully submitted,



John Schemitsch
Assistant Corporation Counsel

cc: **BY FIRST-CLASS MAIL**

Frederick Funes
Plaintiff Pro Se
DIN #: 19-A-0167
Great Meadow Correctional Facility
P.O. Box 51
Comstock, New York 12821-0051

Plaintiff shall file any response to this letter by August 7, 2020. In the meantime, Plaintiff is urged to promptly provide any outstanding discovery to Defendants.

Defense counsel shall promptly mail a copy of this endorsed letter to Plaintiff and, no later than July 29, 2020, file proof of such service.

SO ORDERED.



July 27, 2020

² Enclosed in the copy of this letter to plaintiff is a fourth copy of defendant's First Set of Document Requests and Interrogatories.